

Published in the Wichita Eagle on April 11, 2009

RESOLUTION NO. 09-102

A RESOLUTION FINDING THAT THE STRUCTURE/S LOCATED ON LOT 4, J & G REPLAT IN EASTWOOD VILLAGE TO WICHITA, KANSAS, SEDGWICK COUNTY, KANSAS, COMMONLY KNOWN AS 4953 E. MORRIS, IS/ARE UNSAFE OR DANGEROUS AND DIRECTING THE STRUCTURE/S TO BE MADE SAFE AND SECURE OR REMOVED.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the 24th day of February, 2009 file with the governing body of said City a statement in writing that a certain structure/s, hereinafter described, was/were unsafe and dangerous; and

WHEREAS, the governing body did by Resolution dated the 24th day of February, 2009 fix the time and place of a hearing at which the owner, his agent, any lien holders of record and any occupant of such structure/s could appear and show cause why such structure/s should not be condemned and ordered repaired or demolished, and provided for giving notice thereof as provided by law; and

WHEREAS, such Resolutions were published in the official City paper on the 27<sup>th</sup> day of February and 6th day of March, 2009.

WHEREAS, on the 7th day of April 2009, this matter came back before the governing body for a hearing to determine whether the structure/s that is/are on the premises described herein is/are a dangerous building/s within the terms of Chapter 18.16 of the Code of the City of Wichita, Kansas, and/or K.S.A. 12-1750, et seq.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS AS FOLLOWS:

1. The governing body, after hearing testimony submitted by the Superintendent of Central Inspection and by other interested parties, reviewing the file, and after being otherwise duly and fully informed, finds as follows:

(a) Proper notice was served upon all interested parties entitled thereto in all respects as provided for at K.S.A. 12-1750 et. Seq. and by Chapter 18.16 of the Code of the City of Wichita.

(b) The primary structure/s at issue is/are: A one story frame dwelling about 32 x 40 feet in size. Vacant for at least 3 years, this structure has rotted masonite and brick siding; sagging and badly worn composition roof, with holes and missing shingles; dilapidated front porch; and the wood trim and framing members are rotted. Photographs of the structure/s and testimony of the Superintendent of Central Inspection are incorporated by reference herein as though fully set forth herein or attached hereto.

(c) The owner (owners) of record of the property is (are):

Phillip T. Donaldson & John K. O'Malley  
10556 US Highway 50  
Dodge City, KS 67801

(d) There is nobody occupying the property and the lien holder(s) of record is (are):

Kelly Arnold, County Clerk  
Sedgwick County Courthouse  
525 N. Main  
Wichita, KS 67203

Chris McElgunn, Attorney  
301 N. Main #1600  
Wichita, KS 67202

Mortgage Holders: None

Agent: None

Interested Parties:

Deutsche Bank Trust Company Americas as Trustee  
c/o Shapiro & Reid  
6310 Lamar Suite #240  
Overland Park, KS 66202

Bank One National Association, as Trustee  
c/o Kristen G. Stroehmann  
4600 Madison Ave St #801  
Kansas City, MO 64112

Donald W. Riley, Attorney  
609 N. Broadway  
PO Box 126  
Wichita, KS 67201

City of Wichita  
Central Inspection Graffiti Removal  
455 N. Main  
Wichita, KS 67202

II. The structure/s on the property is/are found to be dangerous and unsafe and is/are found to constitute a public nuisance because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

Based upon the findings set out above, the structure/s is/are declared to constitute a public nuisance.

III. The governing body, based on the findings set forth herein orders that the structure/s is/are hereby condemned:

(a) The governing body hereby directs that the structure/s is/are to be repaired or removed and the premises made safe and secure. Any extensions of time granted for repairs are provided that any back taxes are paid, the structure/s is/are kept secured and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to let the structure/s for bids for demolition. The owner (owners) of such structure/s is/are hereby given ten (10) days from the date of publication of resolution to commence the demolition of said structure/s and ten (10) additional days from the date thereof to complete demolition.

(b) The governing body further directs that if such owner (owners) fails/fail to commence the demolition of such structure/s within the time stated or fails to diligently prosecute the same until the work is completed, then the City Manager will cause the structure/s to be razed and removed and the cost of such razing and removing, less salvage value, if any, shall be assessed as a special assessment against the lot or parcel of land upon which the structure/s is/are located as provided by law.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this Resolution to be published once in the official City paper and a copy shall be mailed by certified mail to the owners, agents, lien holders and occupants within three (3) days after the first publication of the Resolution.

ADOPTED this 7th day of April 2009.

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Carl Brewer, Mayor

ATTEST: (SEAL)

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Karen Sublett, City Clerk